



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	4/18/02	Bill No:	AB 1936
Tax:	Sales and Use Tax Special Taxes	Author:	Horton
Board Position:	Support – Section 1 – Support Sec. 2-42 – Board-sponsored	Related Bills:	AB 1126 (AR&T)

BILL SUMMARY

This bill would require the Board to grant to a qualified annual filer, as defined, a sales and use tax offset, in an amount equal to 1 percent of a qualified person's sales and use tax liability during a specified 12 month period. This bill would also authorize the Board to accept Special Taxes Program returns by electronic media and prescribe the method of authenticating a return and clarify information to be reported under the Diesel Fuel Tax Law.

ANALYSIS

Sales and Use Tax provisions (Section 1)

Current Law

Existing law imposes a sales tax on retailers for the privilege of selling tangible personal property at retail. In general, every person, firm, partnership, corporation, etc., engaging in the business of selling tangible personal property that is subject to the tax when sold at retail is required to apply to the State Board of Equalization for a seller's permit.

Under the law, holders of seller's permits are required to file returns with the Board of Equalization reporting their gross receipts and the amount of tax due. Depending on the amount of tax that is estimated to be due, return periods will generally consist of either calendar quarters, calendar months, calendar years, or fiscal years. Current law provides that the taxes and return are due to the Board on or before the last day of the month following each reporting period.

Current law provides that any person who fails to pay any tax to the state within the required time period shall pay a penalty of 10 percent of the tax due, in addition to the amount of the tax due, plus interest. Additionally, any person who fails to file a return within the required time period shall pay a penalty of 10 percent of the amount of taxes due. These penalties are limited to a maximum of 10 percent, so if a person fails to remit the taxes due and also fails to file the required return, the taxpayer is assessed only one 10 percent penalty.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Proposed Law

This bill would add Section 6458 to the Revenue and Taxation Code to provide that the Board shall grant to a qualified person a single sales and use tax offset, to be claimed by that person 12 months after the inception of a new trade or business in this state, against that person's state sales and use tax liability (5 percent rate). This bill defines a qualified person as a person who operates a new trade or business in this state that commences operations any time during the 12 month effective date of the proposed statute, files all necessary returns with the proper remittance in a timely manner, and is on an annual filing status with the Board. The sales and use tax offset provided in this bill would be an amount equal to 1 percent of the state sales and use tax liability (5 percent rate) incurred during the first 12 months of business operations, but not to exceed \$1,000.

These provisions would become operative January 1, 2003, and would become inoperative December 31, 2003.

In General

Of the 46 states and the District of Columbia that impose a sales and use tax, 28 of these provide taxpayers with a credit or discount. Currently, California is one of 18 states that does not provide any reimbursement to compensate taxpayers for collecting and remitting sales and use taxes in a timely manner.

Providing a sales and use tax offset for taxpayers who file timely returns with the proper remittance has several benefits. An incentive to file timely can encourage increased compliance from taxpayers. Such an incentive can also improve cash flows for the state. Encouraging taxpayers to file timely and submit the proper remittance can allow the compliance staff to spend more time working on more difficult collection cases.

COMMENTS

1. **Sponsor and purpose.** The sales and use tax offset provision is sponsored by Board Member Claude Parrish. The purpose of this provision is to encourage compliance by providing an economic incentive for a new trade or business in this state to timely file the sales and use tax return and remit the proper amount of tax due.
2. **Summary of April 18 amendments.** Amendments to this bill on April 18 limit the offset to new taxpayers filing yearly returns. Based on the Boards current criteria for determining a taxpayers filing status, a taxpayer with an anticipated monthly tax accrual of \$100 or less would be placed on either a calendar year or fiscal year filing status.
3. **Summary of amendments.** Amendments to this bill on March 20, 2002, added the sales and use tax offset provisions for a new trade or business in this state. Amendments to this bill on April 3, 2002, added the definition of a new trade or business in this state.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

4. **Benefits for the state.** Providing an offset for new taxpayers can have many benefits for the state. The financial incentive would partially offset the cost for new taxpayers to file their tax returns, creating a sense of goodwill between the Board and taxpayers. For certain types of sales a vendor discount may provide a sufficient incentive to improve taxpayer compliance, resulting in additional reporting of taxable sales. One state we contacted, the South Carolina Department of Revenue, mentioned that they believe their vendor discount program encourages the timely filing and payment of the sales tax and it also promotes voluntary compliance. Unfortunately, South Carolina staff told us that they did not have statistical data to support this conclusion.

**Board-sponsored Electronic Media provisions
(Sections 2 – 42)**

Current Law

Under current Sales and Use Tax Law, the Board is authorized to accept sales and use tax returns by electronic media. Current law also requires that any return filed with the Board be authenticated in a manner prescribed by the Board.

Under existing Diesel Fuel Tax Law, Section 60204 requires each terminal operator to file with the Board a copy of any return required to be filed with the Internal Revenue Service (IRS) pursuant to Section 48.4101-4T of Title 26 of the Code of Federal Regulations. That return must be filed with the Board no later than 10 days after filing the IRS return.

Proposed Law

This bill would authorize the Board to accept Special Taxes Program returns by electronic media and to prescribe the method of authenticating a return.

This bill would also amend Section 60204 of the Diesel Fuel Tax Law, to specify the information the terminal operator is required to file with the state, allow the state to accept the report filed with the Internal Revenue Service if the terminal operator gives consent, and correct the reference to the Code of Federal Regulations.

This bill would also add Section 60505.5 to the Diesel Fuel Tax Law to provide that the claim for refund forms may include, but not be limited to, electronic media. The claim for refund forms would be authenticated in a form or pursuant to methods as may be prescribed by the Board.

In General

With the proliferation of computers, local area networks, and electronic mail, these amendments would provide the Special Taxes Department with the opportunity to be responsive to these changing technologies. Many states have implemented forms of electronic transmission of returns, and both the Internal Revenue Service and the Franchise Tax Board are currently accepting returns through the use of electronic media. Recently the Board has received requests from the petroleum and trucking industries to allow them to file their returns electronically.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

There are many benefits to allowing taxpayers to file electronically. For example, as more and more taxpayers take advantage of the opportunity to file electronically, processing costs in the mailroom, the cashiering unit, the data entry group, and the file area could potentially be reduced. It could also reduce data entry errors and possibly provide for more accurate tax returns. In addition, over time, electronic filing could reduce the physical space needed for housing documents in expensive office space. Instead, returns and other documents could be stored on electronic media, such as magnetic tape or disks, in less expensive off-site locations. Electronic filing could also provide accessible, up-to-date return information in a more timely manner through its automatic entry of information into the computer system.

COMMENTS

1. **Sponsor and purpose.** The purpose of this Board-sponsored measure is to increase tax and fee payer convenience and choice in the method of filing returns and reports. This measure is also intended to streamline operations and reduce costs for processing tax return information.
2. **Summary of amendments.** Amendments to the Special Taxes provisions of this bill on March 20, 2002, made numerous nonsubstantive changes.
3. **This bill would adopt provisions similar to the Sales and Use Tax Law for the following Special Taxes programs:** Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, and Diesel Fuel Tax Law.
4. **This measure would address requirements under the existing Diesel Fuel Tax Law whereby a terminal operator is required to file with the Board a copy of any return filed with the Internal Revenue Service.** That return must be filed with the Board within 10 days after filing with the Internal Revenue Service. In addition, the new Internal Revenue Service's ExSTARS system will require a terminal operator to file an electronic return at a secure web site and will provide the return to the state if the terminal operator signs a consent form.
5. **Related legislation.** Similar provisions were contained in last year's Board-sponsored AB 1126 (AR&T), which was held by the Assembly Appropriations Committee for unexplained reasons.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

COST ESTIMATE***Sales and Use Tax provisions
(Section 1)***

Pending.

***Board-sponsored Electronic Media provisions
(Sections 2 – 42)***

This bill would authorize the Board to accept electronic returns but not require immediate implementation. The cost avoidance resulting from reduced workload and supplies is unknown because it is not possible to determine how many taxpayers would utilize this method of filing returns. However, any cost avoidance would be offset by any administrative cost associated with providing for the e-filing method.

REVENUE ESTIMATE***Sales and Use Tax provisions
(Section 1)***

This bill would provide new permittees a sales and use tax offset (or vendor discount) of one percent of sales and use tax payments made, with a maximum discount payment of \$1,000 per taxpayer. Only new permittees with permits established during the one-year period from January 1 to December 31, 2003 would be eligible for the offset. The proposal is limited to permittees who filed their return on an annual yearly or fiscal yearly basis. Only new permittees who reported their tax liabilities and paid on a timely basis for a 12-month period would be eligible. The offset payments would be paid to the taxpayer after the 12-month period was completed. The proposal only applies to the state portion of the sales tax, that is a rate of 5.0 percent.

The Sales and Use Tax Department (SUTD) reports that 56,980 new yearly or fiscal yearly permits were issued in 2000 (see table on next page). The average statewide sales and use tax rate is 7.92 percent. We assume that the reported tax by these new permittees also averages 7.92 percent. The proposed vendor discount is only applied to the state portion (5.0 percent) of the average state and local tax rate of 7.92 percent, which requires the middle column in the table that multiplies the originally reported tax revenue by the factor (5.0 / 7.92). As shown in the table, we estimate that the proposal will cost the state approximately \$110,040 per year.

According to our estimate of the distribution of new taxpayer numbers, the vendor discounts to most taxpayers would be very small. The discounts average less than \$2.00 per taxpayer.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Based on Twelve-Month Period of January 1, 2000 to December 31, 2000

Type of Return and Reporting Basis

Reporting Basis:	Total New Accounts	Average Reported Tax Due (Dollars)	Average Reported x (5.0/7.92) (State Rate Portion)	Annual Discount 1% or \$1,000 (Dollars)	Total Annual Discount (Dollars)
Full Time					
Fiscal Yearly	12,476	\$588.55	\$371.56	\$3.72	\$46,356
Yearly	19,979	\$371.04	\$234.24	\$2.34	\$46,799
Subtotal Full Time	32,455	n/a	n/a	n/a	\$93,155
Part Time					
Fiscal Yearly	10,723	\$112.42	\$70.97	\$0.71	\$7,610
Yearly	13,802	\$106.44	\$67.20	\$0.67	\$9,275
Subtotal Part Time	24,525	n/a	n/a	n/a	\$16,885
Totals	56,980				\$110,040

With the specified operative dates (eligibility during calendar year 2003 only), the total cost of the proposal would be approximately \$110,000 in reduced state general fund sales tax revenues. The revenue reduction would not begin until fiscal year 2003-04, since a twelve-month period is required before taxpayers are eligible to apply for the offset. It is likely that most of the fiscal impacts will occur within two fiscal years, 2003-04 and 2004-05.

Board-sponsored Electronic Media provisions

(Sections 2 – 42)

The provisions of this bill would not affect the state's revenues.

Analysis prepared by:	Bradley E. Miller (Sales Tax)	445-6662	04/22/02
	Cindy Wilson (Special Taxes)	445-6036	
Revenue estimate by:	Joe Fitz	323-3802	
Contact:	Margaret S. Shedd	322-2376	
Is			1936-3cw.doc

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.